

§ 317.45

§ 317.45 Standards for amendment request determinations.

The record which the individual requests to be amended must meet agency recordkeeping standards. The record must be accurate, relevant, timely, complete, and necessary. If the record in its present state does not meet each of the criteria, the amendment request shall be granted to the extent necessary to meet them.

§ 317.46 Time limits.

Within 10 working days, excluding Federal holidays, of receiving an amendment request, provide the individual a written acknowledgment of the request. If action on the amendment request is completed within the 10 working days and the individual is so informed, no separate acknowledgment is necessary. The acknowledgment must clearly identify the request and advise the individual when to expect notification of the completed action. Only under exceptional circumstances shall more than 30 working days, excluding Federal holidays, be required to complete the action on an amendment request. If a completed action takes longer than 30 working days, the delay must be explained fully in the Privacy Act case file.

§ 317.47 Granting an amendment request in whole or in part.

(a) *Notify the requester.* To the extent the amendment request is granted, the individual shall be notified and make the appropriate amendment.

(b) *Notify previous recipients.* All previous recipients of the information (as reflected in the disclosure accounting records) should be notified that the amendment has been made and provide each a copy of the amended record. Recipients who are known to be no longer retaining the record need not be advised of the amendment. If it is known that other DoD components or other Federal Agencies have been provided the information that was amended, or if the individual requests that other DoD components or other Federal agencies be notified, provide the notification even if those components or agencies are not listed in the disclosure accounting.

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(c) *Documentation.* The action should be documented in the Privacy Act case file if the request for amendment was in writing.

§ 317.48 Denying an amendment request in whole or in part.

(a) If the amendment request is denied in whole or in part, the individual should be promptly notified in writing and document the action in the Privacy Act case file. The notification to the individual shall include:

(b) *Basis for denial.* Those sections of the Privacy Act or this part upon which the denial is based.

(c) *Right to appeal.* Advice that the individual may appeal to the Assistant Director, Resources, or his or her designee for an independent review of the initial denial.

(d) *Appeal procedures.* The procedures for requesting an appeal, including the title and address of the official to whom the appeal should be sent; and

(e) *Appeal assistance.* Where the individual can receive assistance in filing the appeal.

§ 317.49 Appeal procedures.

Procedures to ensure the prompt, complete, and independent review of each denial of an amendment request if the individual appeals must ensure:

(a) *Appeals are forwarded.* The appeal with all supporting documentation, including that furnished by the individual and that contained in agency records, is provided to the Assistant Director, Resources, or his or her designee.

(b) *Standards for review.* The standard for deciding the appeal is whether the unamended record is accurate, relevant, timely, complete, and necessary. If the unamended record does not meet each of these criteria, the amendment request shall be granted to the extent necessary to meet them.

(c) *Time limits.* The appeal is processed within 30 working days, excluding Federal holidays, unless the appeal official determines that an adequate review cannot be completed within that period and gives the individual a written explanation of the reason and when the review will be completed.

(d) *Denial notification.* If the appeal is denied completely or in part, the individual is provided written notification that:

(1) The appeal has been denied, citing the sections of the Privacy Act or this rule on which the denial was based.

(2) The individual may file a statement of disagreement. An explanation of the filing procedures will be included in the written notification.

(3) If properly filed, the statement of disagreement shall be included in the record and furnished to all future recipients of the record and to all prior recipients of the record as listed on the disclosure accounting, except those known to be no longer retaining the record; and

(4) The individual may seek judicial review of the decision not to amend the record.

(e) *Amendment notification.* If the record is amended:

(1) The individual is notified promptly of the decision.

(2) All previous recipients of the record, as listed in the disclosure accounting (except those known to be no longer retaining the record), are notified of the amendment and provided a copy; and

(3) Any previous recipient known to be holding a copy of the record (but not listed in the disclosure accounting), as well as any other DoD component or other Federal agency named by the individual, also should be informed of the amendment and provided a copy.

(f) *Documentation.* All actions on the appeal shall be documented in the Privacy Act case file.

§ 317.50 Requests for amending OPM records.

The records in an OPM Government-wide system of records are only temporarily in the custody of the agency. Requests for amendment of these records must be processed in accordance with the OPM Federal Personnel Manual. The agency denial authority may deny a request, but all denials are subject to review by the Assistant Director for Workforce Information, Personnel Systems Oversight Group, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415-0001.

§ 317.51 Individual's statement of disagreement.

(a) *Right to submit.* If the appeal authority refuses to amend the record as requested, the individual may submit a concise statement of disagreement listing the reasons for disagreeing with the refusal to amend.

(b) *Filing the statement.* If possible, incorporate the statement of disagreement into the record. If that is not possible, the record should be annotated to reflect that the statement was filed and maintain the statement so that it can be obtained readily when the disputed information is used or disclosed. For instance, automated record systems not programmed to accept statements of disagreement must be capable of having indicators entered to reflect the presence of statements on file and how to obtain them.

(c) *Inform previous recipients.* Copies of the statement of disagreement should be furnished to all individuals listed in the disclosure accounting of the record (except those known to be no longer retaining the record), as well as to all other known holders of copies of the record.

(d) *Disclosure.* Whenever the disputed information is disclosed for any purpose, ensure that the statement of disagreement also is used or disclosed.

§ 317.52 Agency's statement of reasons.

(a) *Right to file.* If the individual files a statement of disagreement, the agency may file a statement of reasons containing a concise summary of the agency's reasons for denying the amendment request.

(b) *Content.* The statement of reasons shall contain only those reasons given to the individual by the appeal official and shall not contain any comments on the individual's statement of disagreement.

(c) *Disclosure.* At the discretion of the agency, the statement of reasons may be disclosed to those individuals, DoD components, and other Federal agencies that receive the statement of disagreement.